

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 4:</b> Assessment (Investigation)	<b>Effective Date:</b> July 1, 2007
	<b>Section 5:</b> Consent to Interview Child	<b>Version:</b> 1

<b>POLICY</b>	<b>OLD POLICIES: 205.421; 205.422</b>
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- The Indiana Department of Child Services (DCS) will secure the **consent** (permission) of the child's **parent/guardian/custodian prior to interviewing a child** who is the following:
  - An alleged victim of abuse/neglect; or
  - An alleged child perpetrator; or
  - A potential witness or collateral contact.
- Exceptions to this rule include:
  - Exigent circumstances override the necessity of consent due to concerns for the alleged child victim's safety and well-being, see separate policy [Exigent Circumstances](#);
  - A reasonable number of attempts made to locate and contact the parent/guardian/custodian result in no contact being made;
  - The child is under the care and custody of DCS **and** parental rights have been terminated.
  - The child is committed to a Department of Correction (DOC) facility.
- If the parent/guardian/custodian refuses to give consent and/or places conditions upon the interview process that the FCM finds unacceptable, and no exigent circumstances exist, a court order will be pursued.
- In certain circumstances, DSC will seek consent from individuals other than the child's parent/guardian/custodian prior to the interview; see **Related Information** for details.

#### Code References

- N/A

<b>PROCEDURE</b>
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The FCM will:

1. Consider whether exigent circumstances exist. (Refer to separate policy, [Exigent Circumstances](#) for guidance and follow all procedures contained in the policy if exigent circumstances exist.)
2. If exigent circumstances **do not exist**, determine who must give consent. (See Related Information for assistance).
3. Make a reasonable number of attempts to contact the person who must give consent.
4. If unable to make contact with the required parties after a reasonable number of attempts, document attempts in ICWIS, proceed with child interview without consent and complete Step 9 below.
5. If contact is made with the required parties, ask for consent after explaining the following:
  - a. The interview is part of a DCS CA/N assessment (investigation);

- b. The interview must take place to assure the child's safety;
  - c. The CA/N allegations are: \_\_\_\_\_ (per the CA/N intake);
  - d. The information gained during the interview is confidential. It will not be released to outside parties unless it is required during a court proceeding (See separate policy, [2.7 Sharing of Confidential Information](#)). The parent/guardian/custodian has the right to know the information gained during the interview.
6. If consent given, have the required parties sign form, [Consent of Parent, Guardian or Custodian to Interview Child\(ren\)](#), and proceed with child interview.
  7. Follow all procedures in separate policy, [Entry Into Home or Facility](#).
  8. If consent not given, coordinate with the local DCS office attorney to pursue a court order.
  9. In any cases where consent was not requested and the child interview proceeded due to exigent circumstances, give notice of interview to parent/ guardian/custodian or Facility Administrator as soon as possible but no later than the same day of the interview.
  10. Notify the appropriate LCPA, ongoing services FCM and/or probation officer of the interview.

## RELATED INFORMATION

### **Who Must Give Consent When Exigent Circumstances Do Not Exist?**

Note: The chart below summarizes many, but not all, situations. If an FCM encounters a circumstance not covered on this chart, he/she should use critical thinking skills and seek Supervisory guidance as needed.

<b><u>Child's Situation</u></b>	<b><u>Additional Details</u></b>	<b><u>Consent From</u></b>
Child lives at home with parent / guardian / custodian		Parent / guardian / custodian.
Child lives in foster home	Parental rights have not been terminated.	Parent / guardian / custodian. No consent needed from foster parent or LCPA. <sup>1</sup>
Child is on probation		Parent/Guardian/Custodian.
Child has been committed to DOC facility		No consent needed from parent/guardian/custodian; consent is required from DOC facility superintendent.
Child has been placed in residential facility	[NEW PRACTICE] Alleged perpetrator is an employee or resident of the facility.	<b>Exigent circumstances are assumed to exist; no consent needed.</b>
	Alleged perpetrator is someone other than an employee or resident of the facility.	Assessing (Investigating) FCM contacts ongoing services FCM assigned to child. Ongoing services FCM seeks consent from parent/guardian/custodian.
Child is under care and custody of DCS	Parental rights have been terminated, but child has not been emancipated.	Assessing (Investigating) FCM seeks permission from ongoing services FCM assigned to child.

### **Exigent Circumstances**

See Practice Guidance in separate policy, [Exigent Circumstances](#).

<sup>1</sup> It is advisable to give advance notice of the interview to the LCPA as a courtesy.

### **Consent from One or Both Parents?**

- If the child has **two** parents and **both** parents have physical custody of the child (i.e., the parents are living together) either parent may give consent. However, once either parent has said “no,” it is inappropriate to seek permission from the other parent (this is referred to as “answer shopping.”)
- If the child has **two** parents but the parents do not live together, consent must be obtained from the custodial parent (i.e., the parent with physical custody, also referred to as the “custodial parent”).

### **Consent from a Guardian**

A child will have only one legally appointed guardian.

### **Reasonable Number of Attempts**

A “reasonable number of attempts” generally means that the FCM attempted to reach the individual at various times during the day to allow for work/school schedules; used multiple methods of contact; etc. What exactly constitutes a reasonable “number” will vary depending upon the urgency of the assessment (investigation). In general, the FCM should attempt to reach the parent/guardian/custodian by trying each address or phone number between 3 and 5 times for an assessment (investigation) that must be initiated within 24 hours. For an assessment (investigation) that must be initiated within 5 days, the FCM should try each address and phone number between 5 to 10 times. See separate policy, [Good Faith Efforts](#), for related information.

### **Verbal Consent**

Verbal consent should be used as a last resort. For verbal consent, the FCM should put the parent/guardian/custodian on speakerphone and have an individual (a DCS employee, LEA, or a school, mental health or medical professional) serve as a witness. If verbal consent is used, the FCM must follow-up by getting the parent/guardian/custodian’s signature on a consent form as soon as possible and placing the form in the assessment (investigation) file.

### **Consent to Interview vs. Consent to Enter**

Consent to interview does not necessarily constitute consent to enter. For instance, father gives an FCM permission to interview a child; mother is home with the child and gives the FCM permission to enter the home to conduct the interview. See separate policy, [Entry Into Home or Facility](#).

### **Constraints on Interviews**

It is possible that the parent/guardian/custodian will place constraints on the DCS interview with the child, i.e. “You may interview the child only in my presence.” In these circumstances the FCM should clearly document the constraints placed on the interview and whether the constraints were accommodated. If the constraints are not accommodated and the parent/guardian/custodian refuses to allow DCS to interview the child a court order may be sought.

## **FORMS AND TOOLS**

- [Consent of Parent, Guardian or Custodian to Interview Child \(SF 52013\)](#)
- [Notice of Interview](#)